

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Margaret Ann Hunter,

Plaintiff,

v.

Emigrant Residential, LLC,

Defendant.

ORDER

Civil Case No. 15-483 ADM/JSM

Eric G. Nasstrom, Esq., Morrison Sund PLLC, Minnetonka, MN, on behalf of Plaintiff.

Michael R. Sauer, Esq., Wilford Geske & Cook, P.A., Woodbury, MN, on behalf of Defendant.

This matter is before the undersigned United States District Court Judge on Defendant Emigrant Residential, LLC's ("Emigrant") Motion to Dismiss [Docket No. 11]. Upon reviewing the parties' briefing, it is apparent that claims asserted in this lawsuit are currently also the subject of a pending Motion to Amend in a parallel state court action [Case No. A14-1599] involving the same parties and the same mortgage foreclosure sale at issue here. Specifically, Hunter seeks to add claims in her state action for breach of contract related to the foreclosure sale and for declaratory judgment regarding the actual balance owed on the note.

The state district court originally denied the motion to amend, but Hunter appealed the ruling. The appeal is currently scheduled to be heard on May 20, 2015, and an opinion will be issued within 90 days thereafter. Minn. Stat. § 480A.08, Subd. 3.

In its Motion to Dismiss, Emigrant argues that the doctrine of comity prevents the Court from evaluating Hunter's claims. See Aaron v. Target Corp., 357 F.3d 768, 774 (8th Cir. 2004) ("Under Younger v. Harris, 401 U.S. 37, 91 S. Ct. 746, 27 L.Ed 2d 669 (1971), federal courts should abstain from exercising jurisdiction in cases where equitable relief would interfere with

pending state proceedings in a way that offends principles of comity and federalism.”). This issue will necessarily be clarified once the Minnesota Court of Appeals issues a ruling on Hunter’s appeal (i.e., whether Hunter’s proposed amendments will be heard on the merits in Minnesota state court). Therefore, it is appropriate to temporarily postpone adjudication on Emigrant’s Motion to Dismiss. Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The hearing scheduled for April 21, 2015 at 10:30 a.m. on Emigrant’s Motion to Dismiss [Docket No. 11] is cancelled.
2. If Emigrant wishes to proceed with its Motion to Dismiss after the Minnesota Court of Appeals issues its ruling on Hunter’s appeal, Emigrant shall refile the motion with the Court by September 1, 2015.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: April 21, 2015.